

ANNE MILGRAM  
ATTORNEY GENERAL OF NEW JERSEY  
Division of Law  
124 Halsey Street, Fifth Floor  
Post Office Box 45029  
Newark, New Jersey 07101

RECEIVED and FILED by the  
NEW JERSEY STATE BOARD OF  
VETERINARY MEDICAL EXAMINERS  
on this date of 9-8-09

By: Olga E. Bradford  
Deputy Attorney General  
(973) 648-3696

STATE OF NEW JERSEY  
DEPARTMENT OF LAW AND PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS -  
BOARD OF VETERINARY MEDICAL EXAMINERS

\_\_\_\_\_  
IN THE MATTER OF :

PHILLIP DeBAECKE, D.V.M. :

TO PRACTICE VETERINARY MEDICINE :  
IN THE STATE OF NEW JERSEY :  
\_\_\_\_\_ :

Administrative Action

CONSENT ORDER

This matter was opened to the State Board of Veterinary Medical Examiners (hereinafter referred to as the "Board") following the Board's review of two consumer complaints filed respectively by Deborah Ward and by Officer Michael Cieleusz, of the Middlesex County Society for the Prevention of Cruelty to Animals, following visits to the respondent, Phillip Debaecke, D.V.M., at the Banfield-The Pet Hospital ("Banfield") in Woodbridge New Jersey.

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In the first complaint to the Board, Ms. Ward alleged that Dr. Debaecke engaged in professional misconduct and that he failed to properly diagnose the condition of her Miniature Pinscher dog, "Diesel" beginning in July 2006. The owner purchased Diesel from The Puppy Shoppe pet shop, in Edison, New Jersey, on or about July 20, 2006. Approximately four (4) days later, she returned the dog to the pet store because she believed Diesel had Kennel Cough. Ms. Ward had been advised by the pet store that someone from the respondent's veterinary practice would be at the Puppy Shoppe on that day and would examine her dog. The owner maintains that a technician from Banfield examined Diesel on the morning of July 24, 2006, diagnosed him with Kennel Cough and administered a first dose of Doxycycline. The technician then referred Ms. Ward to the Woodbridge Banfield office. Diesel was presented to Banfield later on July 24<sup>th</sup> where he was examined and diagnosed by a veterinarian with Kennel Cough and provided a ten (10) day supply of Doxycycline.

The dog was rechecked on August 4, 2006 at Banfield where the owner maintained that Diesel was still coughing. Another veterinarian at Banfield concluded that the dog was still undergoing therapy for the Kennel Cough but that he was well enough to receive vaccinations and administered a Distemper vaccination. Ms. Ward asserts that the dog did not improve. On August 8, 2006, she took Diesel to Central Jersey Veterinary Emergency Service

where he was diagnosed with pneumonia. The dog eventually recovered.

In undated correspondence to the Board, Dr. DeBaecke maintained that the owner never contacted Banfield, after the August 4<sup>th</sup> recheck, to indicate that Diesel was not improving. Further, the respondent contended that an unfit for purchase certificate was not provided to Ms. Ward after the dog's first visit to Banfield because the dog only suffered from mild Kennel Cough and was otherwise healthy. Specifically, Dr. DeBaecke stated that

We never declined to give an unfit for sale if the owners asked for one. Treatment was covered here by the Puppy Shoppe so the owners did not get charged while treated here. I did this in exchange for referrals from the Puppy Shoppe.

The Board, following its review of the relevant documents in this matter, has concluded that Dr. DeBaecke engaged in professional misconduct, in violation of N.J.S.A. 45:1-21(e), in that he failed to issue to Diesel's owner an unfit for sale letter on the dog's visit on July 24, 2006 or thereafter, despite diagnosing the new puppy with Kennel Cough within the fourteen (14) day time period outlined in the Pet Purchase Act ("Act"), codified at N.J.S.A. 56:8-95 and N.J.A.C. 13:45A-12.3. The Board concludes that, contrary to Dr. DeBaecke's assertion in his letter to the Board, it is not the responsibility of the consumer to request an

unfit for purchase certificate. Rather, it is the respondent's obligation and duty under the Act to inform the owner of her puppy's condition and, when warranted, to issue the certificate. Finally, the Board concludes that Dr. DeBaecke had a conflict of interest given his relationship with the pet store and as Diesel's treating veterinarian which could have led to his failure to issue an unfit for purchase certificate for a puppy he diagnosed with Kennel Cough. His statement, in his letter to the Board indicating that his conduct here was " . . . in exchange for referrals" from the pet store demonstrates the apparent conflict of interest.

In the second complaint, Officer Michael Cieleusz, of the Middlesex County SPCA, informed the Board that his office received two (2) complaints asserting that sick puppies were being sold from a particular pet store. The complainant alleged that he investigated and believed that Dr. Debaecke had, among other violations, engaged in professional misconduct, contrary to N.J.S.A. 45:1-21(e), as he had permitted an unlicensed veterinary technician employed at Banfield to examine puppies and diagnose and prescribe certain conditions and medications for the pet store puppies. Additionally, the SPCA official contended that the technician signed Dr. DeBaecke's signature to the animals' medical records.

In a letter received by the Board office on October 10, 2007, Dr. DeBaecke, among other things, admitted that he permitted

the unlicensed technician to sign his name on certain medical documents, namely, fit for purchase certificates, for the pet store. From the information available, the Board concludes that Dr. DeBaecke permitted an unlicensed person to perform an act for which a license is required and/or aided and abetted an unlicensed person in performing such an act, in violation of N.J.S.A. 45:1-21(n), in that he permitted his veterinary technician to sign his name on puppies' fit for purchase certificates subsequent to the technician's examination and diagnosis of the puppies' medical condition. These facts as detailed above establish a basis for disciplinary action.

The parties desiring to resolve this matter without the need for further disciplinary proceedings; and the respondent acknowledging and not contesting the findings of the Board and waiving his right to a hearing in this matter; and the Board having been satisfied that the within resolution adequately protects the public health, safety and welfare, and for good cause shown:

IT IS, THEREFORE, ON THIS 31<sup>st</sup> DAY OF

AUGUST 2009, ORDERED THAT:

1. The respondent, Phillip DeBaecke, D.V.M., is hereby reprimanded for his conduct as described above, in violation of N.J.S.A. 45:1-21(e) and (n).

2. The respondent shall cease and desist any further violations of N.J.S.A. 45:1-21(e) and (n).

3. The license of the respondent, Phillip DeBaecke, D.V.M., to practice veterinary medicine in the State of New Jersey is hereby suspended for a period of twelve (12) months with all twelve months of the suspension stayed to be served as a period of probation. The stayed suspension will commence on the date of the entry of this Consent Order.

4. Dr. DeBaecke is hereby assessed a civil penalty, pursuant to N.J.S.A. 45:1-22(b), in the aggregate amount of \$14,000.00: consisting of a \$7,000.00 penalty for engaging in professional misconduct by failing to issue an unfit for sale certificate and a \$7,000.00 penalty for permitting an unlicensed person to engage in the practice of veterinary medicine. Such penalty shall be paid by certified check or money order made payable to the State Board of Veterinary Medical Examiners and shall be forwarded to Leslie G. Aronson, Executive Director, Board of Veterinary Medical Examiners, 124 Halsey Street, Sixth Floor, Post Office Box 45020, Newark, New Jersey 07101, contemporaneously with the signing of this Order. Subsequent violations will subject respondent to enhanced penalties pursuant to N.J.S.A. 45:1-25.

In the alternative, the respondent may pay the civil penalty, totaling \$14,000.00 in equal installments payments of \$400.00 for a total thirty-five (35) months. The first payment shall be paid simultaneously with the submission of this Order with

subsequent payments due on the fifteenth of each month thereafter until the total amount is paid in full.

Any failure to make any installment payment within ten (10) days of the due date shall cause the entire remaining balance to become immediately due and payable without further notice. Further, failure to pay the penalty within the time period allotted above will result in the filing of a Certificate of Debt, including the applicable interest permitted by the New Jersey Court Rules, and may result in subsequent disciplinary proceedings before the Board for failure to comply with an Order of the Board.

5. Failure to comply with any of the terms of the Consent Order would constitute a violation of said Order, proof of which would constitute grounds for disciplinary action by the Board, including but not limited to the activation of the stayed suspension to an active suspension. Similarly, any allegations of misconduct and/or violations of the Veterinary Medical Practice Act and/or its accompanying regulations on the part of the respondent during his probationary period, which are substantiated by the Board, shall also serve as grounds for any other appropriate disciplinary action as the Board may determine, including but not limited to the activation of the stayed suspension to an active suspension.

NEW JERSEY STATE BOARD OF  
VETERINARY MEDICAL EXAMINERS

By: Mark W. Logan VMD  
MARK W. LOGAN, V.M.D.  
President

I have read and understand  
the within Consent Order  
and agree to be bound by  
its terms. Consent is  
hereby given to the Board  
to enter this Order.

Phillip DeBaecke  
PHILLIP DeBAECKE, D.V.M.

DATED: 8/26/09